

REMARKS

This is in response to the office action mailed May 9, 2003. A Petition for extension of time accompanies this Response.

The Objection/Rejections

The Examiner objected to claims 24 and 25 based on a certain formality, and these two claims have now been amended to overcome the objection.

Claims 1, 3, 7, 8, 11, 13, 15, 17 and 21 are rejected under 35 USC 102(b) as being anticipated by Johnson. Claims 22-23 are rejected under 102(b) as being anticipated by Chliwnyj. Claims 2, 4 and 18 are rejected under 35 USC 103(a) as being unpatentable over Johnson, while claims 9, 10 and 26 are rejected under 35 USC 103(a) as being unpatentable over Johnson in view of Mantle. Finally, claims 12, 14 and 20 are rejected under 35 USC 103(a) as being unpatentable over Johnson in view of Chier.

The Examiner has, however, indicated that claims 5, 6, 16 and 19, while objected to, would be allowable if re-written in independent form. Most of the claims presented in this Response have been amended based on the subject matter which the Examiner considers allowable, as will be discussed further below.

The Claim Amendments

Under this heading, a brief description of each of the independent claims, as amended, will be discussed.

Claim 1

Claim 1 now includes the element of the microphone, which can switch the simulator between an "on" position and an "off" position. This claim now includes the content of original claim 5, but does not cover the situation where the flame simulator can be switched to an "on timed" position. It is submitted that claim 1, in its amended form, defines patentable subject matter, and the additional feature relating to the "on timed position" remains in an amended claim 5.

By the Examiner's findings, it is submitted that claim 1 now contains patentable subject matter. Claims 2-20 depend from this claim, and would also therefore be allowable.

Claim 21

Dependent claim 21 has been amended so that it defines a "candle-like device", and recites the feature of the recess in a surface on the upper portion, with the at least two light sources being located substantially in the recess. This enhances the realistic flickering effect provided by the invention. Note that

none of the references cited show a recessed top with the light sources substantially therein. For example, Johnson shows the top flat, with the entire light source clearly projecting considerably above that flat surface. Chliwnyj does not show a recessed top with the light sources therein. It is therefore submitted that claim 21 is allowable.

Claim 22

Independent claim 22 has been amended to recite the feature of the microphone which can send audio sounds for processing to control the light source. Since the Examiner, in the office action, indicated that claim 5, which essentially recites the issue of the microphone, contains allowable subject matter, it is submitted that revised claim 22 should also be allowable. Note that claim 22 does not contain all the details of original claim 5, but contains the important element of the microphone to use sounds, thereby controlling the light source, and none of these features is disclosed in the prior art.

Claim 27

This is a new claim presented for the Examiner's consideration, and recites an important feature not disclosed in any of the references. Particularly, this claim states that the integrated circuit is electrically connected independently to

each of the light sources. None of the prior art references show this arrangement. Clearly, the patent to Johnson shows a single electrical connection to the translucent bulb 12, which itself contains the lamps 14, 16 and 18. These light sources 14, 16 and 18 are not independently connected to the integrated circuit. The new claim 27, which recites this feature, allows far more control of the light source to control and regulate the flickering for a more realistic effect. It is respectfully submitted that the same applies with respect to the Chliwnyj patent, which shows a number of LEDs, but each is connected through a common electric source to the integrated circuit.

It is therefore requested that the Examiner favorably consider new and independent claim 27, which is submitted to contain allowable subject matter.

Claim 28

This is a new independent claim submitted for the Examiner's consideration. The claim relates to a flame simulator assembly, including a flame simulator having the element of original claim 1, but also a body in the shape of a fire log, as claimed in original claim 16. In essence, therefore, new claim 21 is a combination of original claims 1 and 16, and claim 16 was found by the Examiner to contain allowable subject matter. As such, it

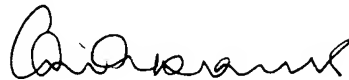
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is submitted that this new claim 28 also contains allowable subject matter.

In view of the amendments to the claims, as well as the discussion set forth herein, favorable reconsideration of this application is now requested. If the Examiner has any questions, he is invited to contact the undersigned at (818)710-02788.

Please acknowledge receipt hereof by stamping and returning the enclosed postcard.

Respectfully submitted,



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Enclosed: Petition, check for \$55.00, return postcard

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on September 8, 2003.



Colin P. Abrahams